MONTANA LEGISLATIVE HISTORY

Chapter _____ ~~19~~ 2001

Bill H _____ SJ 13 Original bill & history ____C

H. Committee on Natural Res		S. Committee on Natural Res.	
Hearing Date(s) 3-26	✓C	Hearing Date(s) 2-14	✓C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Anne Hedges, MEIC, told the committee she supported the bill and thought this provided for a good process.

Closing by Sponsor:

SEN. MCCARTHY closed by informing the committee that if this bill passed there is no need to change the language.

HEARING ON SJ 13

Sponsor: **SENATOR WILLIAM CRISMORE, SD 41, Libby**

Proponents: **Cary Hegreberg, MT Wood Products Association**
Patrick Heffernan, MLA
Ronald Buentemeier, F.N. Stoltze Land & Labor Co.
Ed Regan, RY Timber

Opponents: **Steve Thompson, Self**

Opening Statement by Sponsor:

SENATOR WILLIAM CRISMORE, SD 41, Libby, informed the committee that there is a conflict between Idaho and Montana timber sales. He charged that Montana needs to get the full market value for its timber, the resolution would ask Idaho to treat Montana the same way that Montana treats them. Idaho has a formula that gives the advantage to Idaho businesses. However, if they come over to Montana and they are the highest bidder they get the timber. Idaho needs to treat Montana fair or Montana will have to create a law to treat them in the same manner. This resolution is aimed at creating a level playing field.

Proponents' Testimony:

Cary Hegreberg, MT Wood Products Association, told the committee that the legislature needs to help settle the trade dispute between Idaho and Montana. He pleaded with the committee to create a level playing field. **Mr. Hegreberg** handed out a copy of the Idaho Statutes to explain the problem **EXHIBIT(nas37a18).**

Patrick Heffernan, MLA, informed the committee that he has had several conversations with MLA members who want this problem solved. It is in the best interest of their members to solve this problem.

Ronald Buentemeier, F.N. Stoltze Land & Labor Co., stated that he supports the competitive bidding process.

Ed Regan, RY Timber, stated that they support the bidding process and desire a level playing field.

Opponents' Testimony:

Steve Thompson, Self, pointed out that state lands are held in trust for the good of the state. He told the committee that creating a similar law for Montana would be in the state's best interest. Creating this law would create a level playing field and a fair bidding process. He charged that he disagreed with the idea that if Idaho is doing something unconstitutional, then Montana needs to be doing something unconstitutional.

Questions from Committee Members and Responses:
SEN. MCCARTHY asked **SEN. CRISMORE** if he would like to do what **Mr. Thompson** suggested and not allow Montana lumber to be sold out of state. **SEN. CRISMORE** said no.

SEN. TOOLE asked if **SEN. CRISMORE** was aware of the controversy surrounding in-state bidding preference. **SEN. CRISMORE** said that yes he was aware of the controversy. **SEN. TOOLE** asked if **SEN. CRISMORE** thought this resolution would put pressure on Idaho. **SEN. CRISMORE** said he hoped it would.

Closing by Sponsor:

SEN. CRISMORE told the committee that in 1995 there was an amendment that stated, "as specified in the enabling act". He clarified by telling the committee that the amendment did not address what was being discussed today. He stated that the hope of the resolution was to have Idaho resend their laws about timber.

EXECUTIVE ACTION ON SJ 3

Motion/Vote: **SEN. MCCARTHY** moved that **SJ 3 BE ADOPTED. Motion carried 8-0.**

EXECUTIVE ACTION ON SB 364

Motion/Vote: **SEN. MIKE TAYLOR** moved **SB 364 DO PASS. Motion carried**

Anne Hedges, MEIC, told the committee she supported the bill and thought this provided for a good process.

Closing by Sponsor:

SEN. MCCARTHY closed by informing the committee that if this bill passed there is no need to change the language.

HEARING ON SJ 13

Sponsor: **SENATOR WILLIAM CRISMORE, SD 41, Libby**

Proponents: **Cary Hegreberg, MT Wood Products Association**
Patrick Heffernan, MLA
Ronald Buentemeier, F.N. Stoltze Land & Labor Co.
Ed Regan, RY Timber

Opponents: **Steve Thompson, Self**

Opening Statement by Sponsor:

SENATOR WILLIAM CRISMORE, SD 41, Libby, informed the committee that there is a conflict between Idaho and Montana timber sales. He charged that Montana needs to get the full market value for its timber, the resolution would ask Idaho to treat Montana the same way that Montana treats them. Idaho has a formula that gives the advantage to Idaho businesses. However, if they come over to Montana and they are the highest bidder they get the timber. Idaho needs to treat Montana fair or Montana will have to create a law to treat them in the same manner. This resolution is aimed at creating a level playing field.

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Steve Thompson, Self, pointed out that state lands are held in trust for the good of the state. He told the committee that creating a similar law for Montana would be in the state's best interest. Creating this law would create a level playing field and a fair bidding process. He charged that he disagreed with the idea that if Idaho is doing something unconstitutional, then Montana needs to be doing something unconstitutional.

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EXECUTIVE ACTION ON SJ 3

Motion/Vote: **SEN. MCCARTHY** moved that **SJ 3 BE ADOPTED. Motion carried 8-0.**

EXECUTIVE ACTION ON SB 364

Motion/Vote: **SEN. MIKE TAYLOR** moved **SB 364 DO PASS. Motion carried**

Idaho Statutes

SENATE NATURAL RESOURCES
EXHIBIT NO. 18
DATE 2/14/01
BILL NO. SJ 13

TITLE 58
PUBLIC LANDS
CHAPTER 10
TIMBER SUPPLY STABILIZATION

58-1001. SHORT TITLE. This chapter may be known and cited as the "Timber Supply Stabilization Act of 1989."

58-1002. LEGISLATIVE FINDINGS AND PURPOSES. (1) The legislature of the state of Idaho finds:

(a) That state forests are a valuable resource to the people of Idaho, providing employment opportunities and a significant source of income to the state and endowed state institutions;

(b) That section 8, article ix, of the constitution of the state of Idaho provides that the state board of land commissioners manage state forests in such manner as will secure the maximum long-term financial return to the institution to which granted or to the state if not specifically granted;

(c) That maximum long-term financial returns to the institutions to which granted or to the state if not specifically granted with state forests is derived from processing within Idaho timber from state forests because this sustains a healthy forest products industry in Idaho, thereby ensuring a sufficient number of bidders to compete for the timber, generating increased financial returns for it;

(d) That a stable supply of timber for the Idaho forest products industry will induce businesses to invest in processing facilities in Idaho, providing more jobs to Idaho's people; and

(e) That the growth of the forest products industry in Idaho produced by a stable timber supply will contribute to the maximum long-term financial return to the institution or to the state by generating increased corporate and individual income and property taxes.

(2) It is hereby declared that the purposes of this chapter are:

(a) To promote wood processing and manufacturing in Idaho to generate related business and employment opportunities, creating additional corporate and individual income and property taxes for the state and its endowed institutions; and

(b) To act as a market participant in the timber market in a way that helps enhance the long-term maximum value of state forests by ensuring that an adequate proportion of the total sales of timber sold by the state of Idaho is sold to qualified purchasers within Idaho.

58-1003. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state board of land commissioners.

(2) "Person" means any individual, association, partnership, corporation, trust, or other legal entity.

(3) "Qualified bidder" means a person who has neither processed outside of Idaho, nor sold to another person who has processed outside of Idaho, five per cent (5%) or more of the cumulative total of the timber from state forests he or she has purchased; provided, however, that the purchase and disposition of pulp logs, as such logs are defined by the board, shall not be considered in determining whether a purchaser is qualified.

(4) "State forests" mean all forest lands owned by the state of Idaho, including those lands granted to an institution by the federal government, which are managed or controlled by the board pursuant to section 8, article ix, of the constitution of the state of Idaho.

(5) "Wood processsing or manufacturing" means the conversion of logs into finished wood products generally recognized as consumer goods, including, but not limited to: paper, shakes, lumber, shingles, plywood and panel products, utility and other finished poles, and posts and other fence products. Wood processing or manufacturing shall not include removing bark and the immediate underlying surfaces of logs thereby producing cants for export outside the boundaries of the state.

10-0.

EXECUTIVE ACTION ON SB 378

Motion: **SEN. BILL TASH** moved that **SB 378 DO PASS.**

Discussion: **SEN. MCCARTHY** pointed out that **SEN. LORENTS GROSFIELD** had amendments to the bill and suggested the committee hold off on executive action until he could explain them.

SEN. TASH withdrew his motion

EXECUTIVE ACTION ON SJ 13

Motion: **SEN. COCCHIARELLA** moved that **SJ 13 BE ADOPTED.**

Substitute Motion: **SEN. COCCHIARELLA** made a substitute motion to **AMEND SJ 13.**

Discussion: **SEN. COCCHIARELLA** told the committee that on page one line fifteen she would like to strike the words "and possibly unconstitutional". She felt the language appeared to inflammatory. **VICE CHAIRMAN MAHLUM** asked **SEN. CRISMORE** if that would be okay. He said that it would be fine. **SEN. TAYLOR** questioned if it changed the concept of the bill. **SEN. MCCARTHY** asked if the committee should change the words discriminatory as well. The committee felt that language was appropriate for what the resolution was trying to accomplish.

{Tape : 4; Side : A}

Substitute Motion/Vote: **SEN. COCCHIARELLA** made a substitute motion that **SJ 13 AMENDMENT BE ADOPTED. Substitute motion carried 9-0.**

Motion: **SEN. COCCHIARELLA** moved that **SJ 13 BE ADOPTED AS AMENDED.**

Discussion: **SEN. TOOLE** expressed his concerns regarding the confronting nature of the bill. **SEN. COCCHIARELLA** responded to his concerns by informing him that it was a form of reciprocity.

Motion/Vote: **SEN. COCCHIARELLA** moved that **SJ 13 BE ADOPTED AS AMENDED. Motion carried 8-0.**

EXECUTIVE ACTION ON SB 379

Idaho Statutes

TITLE 58
PUBLIC LANDS
CHAPTER 10
TIMBER SUPPLY STABILIZATION

58-1004. SALE OF STATE TIMBER. (1) Each fiscal year, the board shall offer ninety-five per cent (95%) of the total volume of the year's timber sales from state forests, exclusive of estimated pulp log volumes from state forests, for sale to qualified bidders. The remaining five per cent (5%) of the total volume of the year's timber sales shall be offered for sale to all persons, regardless of whether they are qualified bidders under this chapter.

(2) Notwithstanding the provisions of subsection (1) of this section, the board shall, if it finds after consideration of unanticipated dislocations in local timber supplies that timber from state forests in certain regions of the state will not be needed by qualified bidders, offer such timber for sale to all persons without regard to whether they are qualified bidders. In addition, if the board determines that a purchaser who has previously acquired state timber is adversely affected by a market dislocation, such purchaser may dispose of his timber without affecting his qualified bidder status.

(3) In the event qualified bidders do not purchase timber offered for sale exclusively to them, the board, if it finds after consideration of the reasons the timber was not sold, that it is in the best interests of the state and the endowed institutions, may offer the timber for sale to all bidders, without regard to whether they are qualified bidders as defined herein. The purchase and disposition of such timber shall not be considered in determining whether a person is a qualified bidder for subsequent timber sales.

58-1005. CERTIFICATION AND APPROVAL OF BIDDERS PRIOR TO BIDDING. A person must be certified by the board as qualified prior to participating in any bidding for state forest timber offered for sale under the provisions of this chapter as described in subsection (1) of section 58-1004, Idaho Code. In support of such certification, each bidder shall present at the request of the board the timber purchase and disposition records described in this section. Such records shall show the cumulative annual purchases and disposition of timber from state forests for the years preceding the date of the timber sale; provided, however, that in no event shall the disposition of timber from a sale prior to the effective date of this chapter be considered. Any person seeking certification who has not previously purchased timber from state forests shall provide the board with the names and addresses of all persons who have any financial interest in the purchase or disposition of the timber, whether such interest results from open loans, mortgages, conditional sales, contracts, silent partnerships, trusts, or any other basis other than trade accounts incurred in the ordinary course of business, and the amounts of such interests. Persons seeking certification shall further provide any other information the board reasonably requires to determine whether such person is a qualified bidder as defined herein. In determining the status of a person, the board may take into consideration other evidence, such as scaling records, load tickets for vehicles transporting forest products, and other written and oral testimony. The information received pursuant to this section shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and shall not be available to the general public unless the person seeking to become a qualified bidder authorizes a release of such information.

Idaho Statutes

TITLE 58

PUBLIC LANDS

CHAPTER 10

TIMBER SUPPLY STABILIZATION

58-1006. REMOVAL FROM LIST OF CERTIFIED BIDDERS. The board shall maintain a current list of all certified bidders. The board shall immediately remove from its list of certified bidders any person who ceases to meet the definition of a qualified bidder as defined in section 58-1003, Idaho Code. Any person removed from the list of qualified bidders shall be ineligible for a period of five (5) years to participate in any bidding on timber sales reserved for qualified bidders. The board shall retain the power to make the final determination upon a bidder's status.

58-1007. IMPLEMENTATION OF THIS CHAPTER. (1) Upon passage of this act, the attorney general of the state of Idaho is hereby directed to take any and all such actions as he may deem necessary to determine the federal and state constitutionality of it. Pending the resolution of the attorney general's actions, timber sales shall be made pursuant to the provisions of this chapter. If, however, for any reason the state cannot sell its timber pursuant to the provisions of this chapter, the board shall carry out its timber sale program under other existing statutes, rules and regulations.

(2) Upon passage of this act, pursuant to the procedures established by the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, the board shall adopt such rules and regulations as are necessary to implement and administer the provisions of it.

58-1008. [SEVERABILITY.] The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

MONTANA SENATE
2001 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 02/14/01

NAME	PRESENT	ABSENT	EXCUSED
SEN. WILLIAM (BILL) CRISMORE, CHAIRMAN	✓		
SEN. DALE MAHLUM, VICE CHAIRMAN	✓		
SEN. VICKI COCCHIARELLA	✓		
SEN. MACK COLE	✓		
SEN. LORENTS GROSFIELD	✓		
SEN. BEA MCCARTHY	✓		
SEN. KEN MILLER	✓		
SEN. GLENN ROUSH	✓		
SEN. BILL TASH	✓		
SEN. MIKE TAYLOR	✓		
SEN. KEN TOOLE	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Natural Resources** report that **Senate Joint Resolution 13** (first reading copy - white) **do pass as amended.**

Signed: *William Crismore*
Senator William Crismore, Chair

And, that such amendments read:

1. Page 1, line 15.
Strike: "and" on line 15 through "unconstitutional" on line 16

- END -

Committee Vote:
Yes 8, No 0.

381625SC.sjo

DATE February 14, 2001

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 354, SJ 13, SJ 3

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ed Regan	406 3111 266-~~4442~~	RY TBR	354	←	
Ed REGAN	406 266-3111	RY TBR	SJ 13	←	
Doug Hansen	406 587-1087	self	SB354 SJ 13	X	
Gary Aitken	388-4221	Louisiana-Pacific	354	X	
Ronald Buentemeier	892-7005	F.H. Stoltze Land & Lbr Co.	SJ 11 354	X X	
Janet Ellis	443-3949	Helena	SJR 3 SB354	X	X
Linda Winnie	755-1406	Flathead Audubon Soc.	SB354		X
Malcolm Thompson	253-4057	RBM Lumber Inc	SB354		X
John Hossack	296-2374	O E/H Lmbr	SB ~~355~~	X	
Neal Brown	837-5018	Flathead Audubon Soc.	SB 354		X
Steve Thompson	862-3795	Self & MCV	354 13 3	X	X X
Jane Adams	257-4527	Self	SB 354		X
RICH HARR	542-6399	SELF	SB354		/

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE February 14, 2001

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 354, SJ 13, SJ 3

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
PATRICK HEFFERNAN		MCA	SB 354	X	
" "		"	SJ 13	X	
Jerry Furtney	949-1531	Self	354 SJ 13	X	
Arlene Montgomery	880-2011	Friends of the Wild Swan	SB 354		X
Steve Hulbert	683-7120	WMC-UM	SB 354	X	
Roy Andes	442-5581	Montrust	SB 354	X	
Gordy Sanders	239-3145	Bitterroot Motorcycle	SB354 SJ 13	X X	
Gary Hegreberg	3-1566	Wood Products Asso	SB354 SJ13	X X	
Steve Gilbert	443-2759	Self	~~SJ 3~~ SB354	X	X
Bud Clinch		DNRC	SB 354	INFORM	
Frank Gilmore	496-4124	Montana Tech of UM	SB 354	X	
L.R. McEvoy	933-5700	SELF			X
S McEvoy	933 5700	self			X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Motion/Vote: REP. DALE moved that SB 449 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

HEARING ON SJ 13

Sponsor: SEN. BILL CRISMORE, SD 41, Libby

Proponents: Don Allen, WETA
Cary Hegreberg, Montana Wood Products Association
Patrick Heffernan, Montana Logging Association

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 9.4}

SEN. BILL CRISMORE, SD 41, Libby, stated at the present time Idaho does not allow out-of-state people to bid on their state timber sales if the logs are going to be taken out of Idaho. Montana does not have that. This resolution is asking Idaho to rescind their law.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 11.8}

Don Allen, WETA, stated that he, Mr. Hegreberg and Mr. Heffernan are in support of SJ 13. It is a nice way to send the right message to Idaho.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 12.7}

REP. LASZLOFFY asked SEN. CRISMORE is it easier to buy timber in Idaho than it is in Montana? SEN. CRISMORE stated this will just put Idaho and Montana on an equal field.

REP. CURTISS asked SEN. CRISMORE has there been any effort to address this by the Western State's Forestry Task Force SEN. CRISMORE stated, there were some letters sent and Washington was going to put the push on them too.

REP. HARRIS asked **SEN. CRISMORE** for more detail on what the highly discriminatory prohibitions on out-of-state purchases are and why they wouldn't violate the commerce clause of the U.S. Constitution. **SEN. CRISMORE** stated that he is not sure why they wouldn't violate the commerce clause. He deferred the question to **Mr. Hegreberg**. **Mr. Hegreberg** handed out a copy of the Idaho statute **EXHIBIT(nah68a03)**. The statute is probably unconstitutional, however, until it is challenged it will remain carrying the force of law. He went over Idaho's law. **REP. HARRIS** asked, why not challenge this in federal court? **Mr. Hegreberg** stated, there are interests in the state of Washington who are looking to challenge this statute. Since these are School Trust Lands in order to bring suit you would have to be a beneficiary of the trust lands. **REP. HARRIS** stated that he would disagree. An out-of-state bidder who is being unfairly discriminated against would have standing in federal court.

same exhibit from Senate hearing

REP. YOUNKIN asked **SEN. CRISMORE** do you know of anything else that the state or private businesses have done to urge Idaho to change their law? **SEN. CRISMORE** stated, Libby Economic Development Group sent some letters to Idaho telling them that this is unfair.

REP. STORY asked **SEN. CRISMORE**, if this doesn't work, how do we request DNRC to bring similar Montana legislation without creating the same question about unconstitutionality? **SEN. CRISMORE** stated, we probably can't do that, it is just a way of getting Idaho's attention.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 21.4}

SEN. CRISMORE asked for a do concur.

EXECUTIVE ACTION ON SJ 13

{Tape : 1; Side : A; Approx. Time Counter : 21.9}

Motion: **REP. HARRIS** moved that **SJ 13 BE CONCURRED IN.**

Discussion:

REP. MOOD gave an example of why this is needed.

REP. HARRIS stated that this resolution tries a little diplomacy before anyone goes into court. This is exactly the right way to go.

Vote: Motion that **SJ 13 BE CONCURRED IN carried unanimously.**

HEARING ON SB 484

Sponsor: **SEN. TOM BECK, SD 28, Deer Lodge**

Proponents: **Don Allen, WETA**
Jim Jensen, MEIC
Jan Sensibaugh, DEQ

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 23.8}

REP. YOUNKIN introduced the bill on behalf of **SEN. BECK. REP. YOUNKIN** stated SB 484 is a fairly simple bill. It will allow the department to issue bonds for some major mining reclamation and use RIT funds to pay off the bonds after it reaches the $100,000,000 cap.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 24.9}

Jan Sensibaugh, DEQ, submitted written testimony **EXHIBIT(nah68a04).**

Jim Jensen, MEIC, stated that the legislature has to pay attention to the needs of the taxpayer and make sure that mines are properly bonded. He asked for a do concur.

Steve Wade, Helena, self, urged the committee to protect the orphan fund. He suggested an amendment putting any excess funds beyond those needed for paying bond debt into the orphan fund.

Don Allen, WETA, stated, this bill is a move in the right direction. He asked the committee to consider the amendment by **Mr. Wade** and urged a do concur.

Opponents' Testimony: None.

HOUSE OF REPRESENTATIVES

ROLL CALL

NATURAL RESOURCES

DATE March 26, 2001

NAME	PRESENT	ABSENT	EXCUSED
CINDY YOUNKIN	✓		
RICK DALE	✓		
GAIL GUTSCHE	✓ 1/2		
GILDA CLANCY	✓		
LARRY CYR	✓		
KEITH BALES			✓ 1/2
BILL EGGERS			✓
LINDA HOLDEN	✓		
BRETT TRAMELLI	✓		
RICK LAIBLE	✓		
DOUGLAS MOOD	✓		
DAVID WANZENRIED	✓		
JEFF LASZLOFFY	✓		
RON ERICKSON			✓
AUBYN A. CURTISS	✓		
CHRISTOPHER HARRIS	✓		
ROD BITNEY			✓
DEE BROWN	✓		
JOAN HURDLE	✓		
BOB STORY	✓		
LARRY MITCHELL	✓		
HOLLY JORDAN	✓		

HOUSE STANDING COMMITTEE REPORT

March 27, 2001

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Joint Resolution 13** (third reading copy - blue) **be concurred in.**

Signed: _____
Representative Cindy Younkin, Chair

To be carried by Representative Aubyn Curtiss

- END -

3/27 2:30 pm

Committee Vote:
Yes 20, No 0.

691417SC.hdc

MONTANA HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE
VISITORS REGISTER

DATE March 26, 2001

BILL NO. SJ 13 SPONSOR(S) Sen. Crismore

TYPE

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	Don Allen	Helena	WBTA
(P) O I	Gary Hagerty	"	Wood Prod. Assn.
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony